

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

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2004 JUN 16 PM 2:35  
U.S. DISTRICT COURT  
DISTRICT OF MASS.

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JOEL F. HOLUBAR,  
&  
MARIANA H. HOLUBAR,

Plaintiffs,

v.

KENT KHOLBERGER;  
THE CHASE FREEDMAN-FAMILY TRUST;  
&  
M/Y CHEROSA, *in rem*,

Defendants.  
-----X

03-CV-12404-NG

**NOTICE OF MOTION & MOTION**

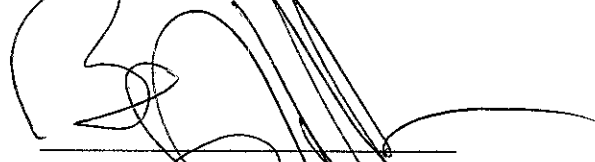
Upon the Affirmation of Bjorn J. Holubar, Esq., sworn to on the 14<sup>th</sup> day of June 2004, and all prior pleadings herein, Plaintiffs will move the United States District Court for the District of Massachusetts, before the Honorable Judith Dien, USDM, United States District Court, Boston, Massachusetts, on the 30<sup>th</sup> day of June 2004, at 9:30am or as soon thereafter as counsel may be heard for an Order: (1) compelling the production of witnesses for depositions twice (2x) noticed pursuant to Fed.R.Civ. Pro. 30 *et seq.*; (2) providing Plaintiffs with sanctions, pursuant to Fed.R.Civ.Pro. Rule 37(a)(b)&(c); therein (2a) deeming Plaintiffs' Requests for Admission admitted, for defendants' willful failure to respond; (2b) mandating defendants' immediate response and production in accordance with Plaintiffs' outstanding Interrogatories and Document Requests; (2c) dismissing defendants' Interrogatories numbered 13-57 (actually

30-151), and (3) striking defendants' Answer, with good and sufficient cause being shown herein for the relief to be granted.

Answering papers, if any, are required to be served upon the undersigned pursuant to the Federal Rules of Civil Procedure.

No prior application for the relief requested herein has been sought.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to be 'Lee T. Gesmer', is written over a horizontal line.

Lee T. Gesmer (BBO #190260)

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Attorneys for Plaintiffs

DATED: June 14, 2004